

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 343**

**Introduced by Assembly Member Chan**

February 11, 2003

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An act to amend Sections 12693.32, 12693.325, ~~12693.326, and 12693.85 of, and to repeal Sections 12693.86, 12693.87, 12693.88, and 12693.89 of, the Insurance Code, relating to health care coverage, and 12693.326 of the Insurance Code, relating to health care coverage, and making an appropriation therefor.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 343, as amended, Chan. Healthy Families Program.

Existing law establishes the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health services to an eligible person. Under the program, eligibility is based upon an application submitted to the board. The board, in administering the program, may pay designated individuals or organizations an application assistance fee in specified circumstances if the individual or organization assists an applicant to complete the program application. ~~Under the program, an applicant may appeal specified decisions, including those regarding program eligibility, to the board in accordance with a specified process.~~ Existing law repeals the program on January 1, 2004.

This bill would specify, except as provided, that no individual or organization may solicit or receive any compensation from an applicant or subscriber for offering or providing program application assistance. The bill would make a violation of this provision subject to a civil penalty that would be deposited into the Healthy Families Fund. Because the bill would increase the amount of revenue in a continuously appropriated fund, it would make an appropriation. ~~The bill would also delete the existing appeal process and would, instead, specify that the appeal be conducted in accordance with either current administrative hearing procedures or a procedure adopted by the board.~~

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12693.32 of the Insurance Code is  
2 amended to read:  
3 12693.32. (a) The board may pay designated individuals or  
4 organizations an application assistance fee, if the individual or  
5 organization assists an applicant to complete the program  
6 application, and the applicant is enrolled in the program as a result  
7 of the application.  
8 (b) The board may establish the list of eligible individuals, or  
9 categories of individuals and organizations, the amount of the  
10 application assistance payment, and rules necessary to assure the  
11 integrity of the payment process.  
12 (c) The board, as part of its community outreach and education  
13 campaign, may include community-based face-to-face initiatives  
14 to educate potentially eligible applicants about the program and to  
15 assist potential applicants in the application process. Those entities  
16 undertaking outreach efforts shall not include as part of their  
17 responsibilities the selection of a health plan and provider for the  
18 applicant. Participating plans shall be prohibited from directly,  
19 indirectly, or through their agents conducting in-person,  
20 door-to-door, mail, or telephone solicitation of applicants for  
21 enrollment except through employers with employees eligible to  
22 participate in the purchasing credit mechanism. However,  
23 information approved by the board on the providers and plans  
24 available to prospective subscribers in their geographic areas shall



1 be distributed through any door-to-door activities for potentially  
2 eligible applicants and their children.

3 (d) (1) All assistance offered to an individual applying to the  
4 program shall be free of charge. Except as provided in subdivision  
5 (a) or by a regulation adopted by the board, no individual or  
6 organization offering or providing assistance to an applicant to  
7 complete the program application shall solicit or receive any fee  
8 or remuneration from the applicant or subscriber for offering or  
9 providing that service.

10 (2) A person who violates this subdivision or a regulation  
11 adopted by the board pursuant to this subdivision, shall be assessed  
12 a civil penalty of five hundred dollars (\$500) for each violation.  
13 For this purpose, a violation occurs each day a solicitation is  
14 published on an Internet Web site or is otherwise circulated to the  
15 public. This penalty is in addition to any other remedy or penalty  
16 provided by law. All penalties collected under this paragraph shall  
17 be deposited in the State Treasury to the credit of the Healthy  
18 Families Fund.

19 (3) A civil or administrative action brought under this article at  
20 the request of the board may be brought by the Attorney General  
21 in the name of the people of the State of California in a court of  
22 competent jurisdiction, or in a hearing through the Office of  
23 Administrative Hearings conducted in accordance with Chapter 5  
24 (commencing with Section 11500) of Part 1 of Division 3 of Title  
25 2 of the Government Code, except that when a civil action is to be  
26 filed in small claims court, the board may bring the action. The  
27 action shall be filed within three years of the date the board  
28 discovered the facts indicating a violation of this subdivision.

29 SEC. 2. Section 12693.325 of the Insurance Code is amended  
30 to read:

31 12693.325. (a) (1) Notwithstanding any provision of this  
32 chapter, a participating health, dental, or vision plan that is  
33 licensed and in good standing as required by subdivision (b) of  
34 Section 12693.36 may provide application assistance directly to an  
35 applicant acting on behalf of an eligible person who telephones,  
36 writes, or contacts the plan in person at the plan's place of business,  
37 or at a community public awareness event that is open to all  
38 participating plans in the county, or at any other site approved by  
39 the board, and who requests application assistance.

1 (2) Until January 1, 2006, a participating health, dental, or  
2 vision plan may also provide application assistance directly to an  
3 applicant only under the following conditions:

4 (A) The assistance is provided upon referral from a  
5 government agency, school, or school district.

6 (B) The applicant has authorized the government agency,  
7 school, or school district to allow a health, dental, or vision plan  
8 to contact the applicant with additional information on enrolling  
9 in free or low-cost health care.

10 (C) The State Department of Health Services approves the  
11 applicant authorization form in consultation with the board.

12 (D) The plan may not actively solicit referrals and may not  
13 provide compensation for the referrals.

14 (E) If a family is already enrolled in a health plan, the plan that  
15 contacts the family cannot encourage the family to change health  
16 plans.

17 (F) The board amends its marketing guidelines to require that  
18 when a government agency, school, or school district requests  
19 assistance from a participating health, dental, or vision plan to  
20 provide application assistance, that all plans in the area shall be  
21 invited to participate.

22 (G) The plan abides by the board's marketing guidelines.

23 (b) A participating health, dental, or vision plan may provide  
24 application assistance to an applicant who is acting on behalf of an  
25 eligible or potentially eligible child in any of the following  
26 situations:

27 (1) The child is enrolled in a Medi-Cal managed care plan and  
28 the participating plan becomes aware that the child's eligibility  
29 status has or will change and that the child will no longer be  
30 eligible for Medi-Cal. In those instances, the plan shall inform the  
31 applicant of the differences in benefits and requirements between  
32 the Healthy Families Program and the Medi-Cal program.

33 (2) The child is enrolled in a Healthy Families Program  
34 managed care plan and the participating plan becomes aware that  
35 the child's eligibility status has changed or will change and that the  
36 child will no longer be eligible for the Healthy Families Program.  
37 When it appears a child may be eligible for Medi-Cal benefits, the  
38 plan shall inform the applicant of the differences in benefits and  
39 requirements between the Medi-Cal program and the Healthy  
40 Families Program.

1 (3) The participating plan provides employer-sponsored  
2 coverage through an employer and an employee of that employer  
3 who is the parent or legal guardian of the eligible or potentially  
4 eligible child.

5 (4) The child and his or her family are participating through the  
6 participating plan in COBRA continuation coverage or other  
7 group continuation coverage required by either state or federal law  
8 and the group continuation coverage will expire within 60 days, or  
9 has expired within the past 60 days.

10 (5) The child's family, but not the child, is participating  
11 through the participating plan in COBRA continuation coverage  
12 or other group continuation coverage required by either state or  
13 federal law, and the group continuation coverage will expire  
14 within 60 days, or has expired within the past 60 days.

15 (c) A participating health, dental, or vision plan employee or  
16 other representative that provides application assistance shall  
17 complete a certified application assistant training class approved  
18 by the State Department of Health Services in consultation with  
19 the board. The employee or other representative shall in all cases  
20 inform an applicant verbally of his or her relationship with the  
21 participating health plan. In the case of an in-person contact, the  
22 employee or other representative shall provide in writing to the  
23 applicant the nature of his or her relationship with the participating  
24 health plan and obtain written acknowledgment from the applicant  
25 that the information was provided.

26 (d) A participating health, dental, or vision plan that provides  
27 application assistance may not do any of the following:

28 (1) Directly, indirectly, or through its agents, conduct  
29 door-to-door marketing or telephone solicitation.

30 (2) Directly, indirectly, or through its agents, select a health  
31 plan or provider for a potential applicant. Instead, the plan shall  
32 inform a potential applicant of the choice of plans available within  
33 the applicant's county of residence and specifically name those  
34 plans and provide the most recent version of the program  
35 handbook.

36 (3) Directly, indirectly, or through its agents, conduct mail or  
37 in-person solicitation of applicants for enrollment, except as  
38 specified in subdivision (b), using materials approved by the  
39 board.

1 (e) A participating health, dental, or vision plan that provides  
2 application assistance pursuant to this section is not eligible for an  
3 application assistance fee otherwise available pursuant to Section  
4 12693.32, and may not sponsor a person eligible for the program  
5 by paying his or her family contribution amounts or copayments,  
6 and may not offer applicants any inducements to enroll, including,  
7 but not limited to, gifts or monetary payments.

8 (f) A participating health, dental, or vision plan may assist  
9 applicants acting on behalf of subscribers who are enrolled with  
10 the participating plan in completing the program's annual  
11 eligibility review package in order to allow those applicants to  
12 retain health care coverage.

13 (g) Each participating health, dental, or vision plan shall  
14 submit to the board a plan for application assistance. All scripts  
15 and materials to be used during application assistance sessions  
16 shall be approved by the board and the State Department of Health  
17 Services.

18 (h) Each participating health, dental, or vision plan shall  
19 provide each applicant with the toll-free telephone number for the  
20 Healthy Families Program.

21 (i) When deemed appropriate by the board, the board may refer  
22 a participating health, dental, or vision plan to the Department of  
23 Managed Health Care or the State Department of Health Services,  
24 as applicable, for the review or investigation of its application  
25 assistance practices.

26 (j) The board shall evaluate the impact of the changes required  
27 by this section and shall provide a biennial report to the Legislature  
28 on or before March 1 of every other year. To prepare these reports,  
29 the State Department of Health Services, in cooperation with the  
30 board, shall code all the application packets used by a managed  
31 care plan to record the number of applications received that  
32 originated from managed care plans. The number of applications  
33 received that originated from managed care plans shall also be  
34 reported on the board's Web site. In addition, the board shall  
35 periodically survey those families assisted by plans to determine  
36 if the plans are meeting the requirements of this section, and if  
37 families are being given ample information about the choice of  
38 health, dental, or vision plans available to them.

39 (k) Nothing in this section shall be seen as mitigating a  
40 participating health, dental, or vision plan's responsibility to

1 comply with all federal and state laws, including, but not limited  
2 to, Section 1320a-7b of Title 42 of the United States Code.

3 (l) Paragraph (2) of subdivision (a) shall become inoperative  
4 on January 1, 2006.

5 SEC. 3. Section 12693.326 of the Insurance Code is amended  
6 to read:

7 12693.326. Notwithstanding any other provision of this part,  
8 a new subscriber in the program shall be allowed to switch his or  
9 her choice of plans once within the first three months of coverage  
10 for any reason.

11 ~~SEC. 4. Section 12693.85 of the Insurance Code is amended~~  
12 ~~to read:~~

13 ~~12693.85. (a) Program decisions described in subdivision~~  
14 ~~(b) may be appealed to the board. An applicant or subscriber shall~~  
15 ~~be accorded the opportunity for an administrative hearing~~  
16 ~~conducted pursuant to the provisions of Chapter 5 (commencing~~  
17 ~~with Section 11500) of Part 1 of Division 3 of Title 2 of the~~  
18 ~~Government Code or pursuant to a process set forth in regulations~~  
19 ~~adopted by the board. The board may adopt the regulations as~~  
20 ~~emergency regulations in accordance with Chapter 3.5~~  
21 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
22 ~~2 of the Government Code. For purposes of that chapter, including~~  
23 ~~Section 11349.6 of the Government Code, the adoption of the~~  
24 ~~regulations shall be considered by the Office of Administrative~~  
25 ~~Law to be necessary for the immediate preservation of the public~~  
26 ~~peace, health and safety, and general welfare.~~

27 ~~(b) Decisions that may be appealed are the following:~~

28 ~~(1) A decision that an individual is not qualified to participate~~  
29 ~~or continue to participate in the program.~~

30 ~~(2) A decision that an individual is not eligible for enrollment~~  
31 ~~or continuing enrollment in the program.~~

32 ~~(3) A decision as to the effective date of coverage.~~

33 ~~SEC. 5. Section 12693.86 of the Insurance Code is repealed.~~

34 ~~SEC. 6. Section 12693.87 of the Insurance Code is repealed.~~

35 ~~SEC. 7. Section 12693.88 of the Insurance Code is repealed.~~

36 ~~SEC. 8. Section 12693.89 of the Insurance Code is repealed.~~

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